WEST ADA SCHOOL DISTRICT
STANDARD CONTRACT TERMS AND CONDITIONS
SERVICES OR PERSONAL PROPERTY

In the event of a conflict between the Standard Terms and Conditions and the Special Terms and Conditions, the Special Terms and Conditions will have precedence.

1. **DEFINITIONS:** Unless the context requires otherwise, all terms not defined below shall have the meanings defined in Idaho Code or IDAPA 38.05.01.011.
   District: means Joint School District No. 2 dba West Ada School District (WASD) or its authorized representative.
   Bid: A written offer that is binding to the Bidder to perform a Contract.
   Contract: Any written agreement, including a Solicitation or specification documents and the accepted portions of the Solicitation, for the acquisition of Property or Services.
   Contractor: The individual or entity delivering the Procurement item identified in the Contract. The term "Contractor" shall include Contractor's agents, officers, employees, subcontractors, and partners.
   Property: Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interest in such Property. Includes rights to access or use state property or facilities for business purposes.
   Proposal: A written response, including pricing information, to a Request for Proposals that describes the solution or means of providing the Property requested and which Proposal is considered an offer to perform in full response to the Request for Proposals. Price may be an evaluation criterion for Proposals but will not necessarily be the predominant basis for Contract award.
   Quotation: An offer to supply Property in response to a Request for Quotation and generally used for small or emergency purchases.
   Solicitation: An Invitation to Bid, Request for Proposals, Request for Quotation, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain Bids, Proposals, pricing, qualifications, or information for the purpose of entering a Contract.
   Vendor: A person or entity capable of supplying Property or Services to the District.

2. **ADDENDA:** The District shall not be responsible for oral interpretations given by a District employee, representative, or others. The issuance of a written addendum is the only official method whereby interpretations, clarification, or additional information can be given that would change the terms and conditions of the proposal. Any modification of this proposal that results in substantial changes to the Scope of Work will be published in an Addendum to this proposal. Subsequent addenda, if any, shall be posted in Bonfire. Addenda can be found under the "Public Notices" section under "Messages." All registered respondents will receive an electronic notification of any addenda issued. However, prior to submitting a proposal, it shall be the sole responsibility of each respondent to determine if addenda were issued and, if so, to acknowledge receipt of such addenda via Bonfire.

3. **ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**: The Contractor is bound to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for Contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR

Part 17, and the Americans with Disabilities Act of 1990, are also incorporated into the Contract. The Contractor shall comply with pertinent amendments to such laws made during the term of the Contract and with all federal and state rules and regulations implementing such laws. The Contractor must include this provision in every subcontract relating to the Contract.

The West Ada School District is an Affirmative Action/Equal Employment Opportunity Provider, and in accordance with applicable state and federal law does not discriminate in any employment practice based on age (40 and over), ancestry, color, marital status, medical condition, national origin, political or union affiliation, physical or mental disability, race, religion, sexual orientation, or sex. This policy of affording equal employment opportunities to all persons is in keeping with the provisions of Title VII and Title IX amendments of the United State Code which protect persons against discrimination.

In the performance of this Contract, the Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, disability, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, age, condition of disability, national origin, or other prohibited reason. Such action shall include, but not limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the Fair Employment Practices Section.

The Vendor will permit access to their records of employment, employment advertisements, application forms, and other pertinent information and records by the Affirmative Action/Title IX Programs Section for the purposes of investigation to ascertain compliance with the Fair Employment Practices Section of the Contract.

4. **ASSIGNMENTS**: Contractor shall not assign this Contract, or its rights, obligations, or any other interest arising from the Contract, or delegate any of its performance obligations, without the express written consent of the District's Chief Operations Officer.

5. **ATTORNEY FEES**: In the event suit is brought or an attorney is retained by any party to the Contract to enforce the terms of the Contract or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorney fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies; however, the District's liability is limited to that which is identified in the Idaho Tort Claims Act, Idaho Code Section 6-9 et seq.

6. **BIDDERS SECURITY:** Any Bid of $250,000 or more must be accompanied by a Bid bond with a surety company licensed to conduct business in Idaho or a certified/bank cashier's check drawn on an Idaho bank in an amount not less than five percent (5%) of the total Bid, made payable to West Ada School District. Certified/cashier's checks of unsuccessful Bidders will be returned upon award of the Bid. Bid bonds must be signed and witnessed by the surety and the bidder.

7. **BRAND NAMES:** Where brand names and models are identified, such reference is not intended to be restrictive but is for the sole purpose of indicating to prospective Bidders a description of the articles required. Bids on alternate or substitute items will be considered, provided the Bid clearly describes the substitutes offered, and the District judges them to be equal to the specified item in quality, utility, and performance. It is understood and agreed that the Bidder is bidding on the identical item specified unless the District has reviewed and granted permission for a substitution of a specific brand or model equivalent during the prescribed time.

8. **CERTIFICATION CONCERNING BOYCOTTS:** Pursuant to Idaho Code 67-2346 & 67-2346A, if aggregate payments under a contract/agreement exceed one hundred thousand ($100,000) and the Contractor/Vendor employs ten (10) or more persons, the Contractor/Vendor must certify that it is not currently engaged in and will not, for the duration of the contract/agreement, engage in a boycott of goods or services from Israel or territories under its control or engage in a boycott of any individual or company because the individual or company:

   Engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or

   Engages in or supports the manufacture, distribution, sale, or use of firearms, as defined in section 18-3302 (2) (d), Idaho Code. The terms in this Certification are defined in Idaho Code 67-2346 and 67-2346A and shall have the meaning defined therein.

9. **CERTIFICATION CONCERNING CHINA:** Pursuant to Idaho Code Section 67-2359, Vendor certifies that it is not currently owned or operated by the government of China/People's Republic of China and will not, for the duration of this Contract, be owned or operated by the government of China/People's Republic of China.

10. **CERTIFICATION CONCERNING NO PUBLIC FUNDS FOR ABORTION**: Pursuant to Idaho Code Section 18-8703-18-87-11, Vendor certifies that it is not currently an abortion provider and will not, for the duration of this Contract, provide abortions or be an affiliate of an abortion provider.

11. **CHANGES/MODIFICATIONS**: Changes of specifications or modification of the Contract in any particular manner can be affected only upon written consent of all parties. If a typographical or other ministerial or clerical error is discovered, the District may correct such error after providing notice to the Contractor of its intent to make the clerical correction. A copy of the corrected Contract (or that portion of the Contract which contains correction(s)) will be provided electronically to the Contractor immediately after the correction(s) are made.

12. **COMMODITY STATUS**: It is understood and agreed that any item offered or shipped shall be new and in first class condition and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by the District in the Solicitation. Demonstrators, previously rented, refurbished, or reconditioned items are not considered "new" except as specifically provided in this section. "New" means items that have not been used previously and that are being actively marketed by the manufacturer or Contractor. The items may contain minimal amounts of recycled or recovered parts that have been reprocessed to meet the manufacturer's new product standards. The items must have the District as their first user and the items must not have been previously sold, installed, demonstrated, or used in any manner (such as rentals, demonstrators, trial units, etc.). The new items offered must be provided with a full, unadulterated, and undiminished new item warranty against defects in workmanship and materials. The warranty is to include replacement, repair, and any labor for the period required by other specifications or for the standard manufacturer or warranty provided by the Contractor, whichever is longer.

13. **COMPLIANCE WITH LAWS, LICENSING, AND CERTIFICATIONS:** Contractor shall comply with **ALL** requirements of federal, state, and local laws and regulations applicable to Contractor or to the Property provided by Contractor pursuant to the Contract. For the duration of the Contract, the Contractor shall maintain in effect and have in its possession all permits, licenses and certifications required by federal, state, and local laws and rules.

14. **CONFIDENTIAL INFORMATION**: Pursuant to the Contract, Contractor may collect, or the District may disclose to Contractor, financial, personnel or other information that the District regards as proprietary or confidential ("Confidential Information"). Such Confidential Information shall belong solely to the District. Contractor shall use such Confidential Information only in the performance of its services under the

Contract and shall not disclose Confidential Information or any advice given by it to the District to any third party, except with the District's prior written consent or under a valid order of a court or governmental agency of competent jurisdiction and then only upon timely notice to the District. Confidential Information shall be returned to the District upon termination or expiration of the Contract. Confidential Information shall not include data or information that:

A. Is or was in the possession of Contractor before being furnished by the District, provided that such information or other data is not known by Contractor to be subject to another Confidentiality Agreement with or other obligation of secrecy to the District; and/or

B. Becomes generally available to the public other than as a result of disclosure by Contractor; and/or

C. Becomes available to Contractor on a non-confidential basis from a source other than the District, provided that such source is not known by Contractor to be subject to a confidentiality agreement with or other obligation of secrecy to the District.

15. **CONFLICT OF INTEREST:** All Bidders must disclose, with their Proposal, the name of any officer, director or agent who is also an employee of West Ada School District. Further, all Bidders must disclose the name of any District employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder's firm or any of its branches. Potential conflicts of interest shall not automatically result in the rejection of the Bid, but they must be declared with the Bid.

16. **CONFORMING PROPERTY**: The Property shall conform in all material respects with the requirements of the District's Solicitation. In the event of non-conformity, and without limitation upon any other remedy, the District shall have no financial obligation regarding the non-conforming goods or services. Additionally, upon notification by the District, the Contractor shall pay all costs for the removal of nonconforming Property from District premises.

17. **CONTRACT DOCUMENTS:** The complete purchase agreement includes but is not limited to the following documents: The advertisement for Bids (when required), the Bid and purchase order conditions, the specifications and drawings, the Bid of the supplier and its acceptance by the District, the purchase order, performance guarantee, and all amendments/addenda thereto. Any of these documents shall be interpreted to include all provisions of the other documents as though fully set out therein.

18. **CONTRACT NUMBERS:** The Contractor shall clearly show the District's Contract number or Purchase Order Number on all acknowledgements, shipping labels, packing slips, Invoices, and on all correspondence.

19. **CONTRACT RELATIONSHIP**: It is distinctly and particularly understood and agreed between the parties to the Contract that the District is in no way associated or otherwise connected with the performance of any service under the Contract on the part of the Contractor or with the employment of labor or the incurring of expenses by the Contractor. Said Contractor is an independent Contractor in the performance of each part of the Contract, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of the Contract, whether it may be for personal injuries or damages of any other kind. Nothing herein shall be construed to establish an employer-employee relationship nor create such a relationship between the District and the Contractor or any subcontractor. Likewise, this relationship is not a joint venture. The Contractor, and any utilized subcontractor, is responsible for all tax, insurance and benefits of personnel and such individuals are not covered by the District in any regard. The Contractor shall exonerate, defend, indemnify, and hold the District harmless from and against and assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security, worker's compensation, and income tax laws with respect to the Contractor or Contractor's employees engaged in performance under the Contract. The Contractor will maintain any

applicable worker's compensation insurance as required by law and will provide certificate of same. There will be no exceptions made to this requirement and failure to provide a certificate of worker's compensation insurance may, at the District's option, result in cancellation of the Contract or in a contract price adjustment to cover the District's cost of providing any necessary worker's compensation insurance. The Contractor must provide either a certificate of worker's compensation insurance issued by a surety licensed to write worker's compensation insurance in the state of Idaho, as evidence that the Contractor has in effect a current Idaho worker's compensation insurance policy, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission. The District does not assume liability as an employer.

20. **CONTRACTOR RESPONSIBILITY**: The Contractor is responsible for furnishing and delivery of all Property and Services included in the Contract, whether the Contractor is the manufacturer or producer of such Property. Further, the Contractor will be the sole point of contact on contractual matters, including all warranty issues and payment of charges resulting from the use or purchase of Property.

21. **DEFAULT BY VENDOR/SHORTAGES:** The District shall hold the Vendor responsible for any damage which may be sustained because of the failure or neglect of the Bidder to comply with any term or condition listed herein or in the purchase order, it being specifically provided and agreed that time shall be the essence of the contract delivery requirements**. If the Bidder fails or neglects to furnish or deliver any of the materials, supplies or services listed herein at the prices named and at the times and places herein stated or otherwise fails or neglects to comply with the specifications and other terms of the contract, the District may, upon written notice to the Bidder, cancel the contract in its entirety or cancel or rescind any or all items effected by such default, and may, whether or not the contract is cancelled in whole or in part, purchase the materials, supplies or services elsewhere without notice to the Vendor. The prices paid by the District at the time such purchases are made shall be considered the prevailing market prices. Any extra cost incurred by such default may be collected by the District from the Bidder and the surety on the bond, if any.** Failure to pay said amount to the District upon demand will result in the company being removed from the Bid list for a period of not less than three (3) years from the date of infraction. Thereafter, the Bidder may request to be reinstated to the Bid list.

22. **ELECTRONIC SIGNATURE AND COUNTERPARTS**. This Contract may be signed by either or both parties by electronic signature and such signature shall be fully binding. This Contract may also be executed in two (2) or more counterparts, all of which shall be considered on and the same Contract and shall be effective when one or more counterparts has been signed by each of the parties. All parties need not sign the same counterpart.

23. **ENTIRE AGREEMENT**: The Contract is the entire agreement between the parties with respect to the subject matter hereof. Where terms and conditions specified in the Contractor's Bid, Proposal or Quotation differ from those specifically stated in the Contract, the terms and conditions of the Contract shall apply. In the event of any conflict between the District's Standard Contract Terms and Conditions and any Special Terms and Conditions in the Contract, the Special Terms and Conditions will govern. The Contract may not be released, discharged, changed, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties; however, Termination for Fiscal Necessity is excepted, and the District may issue unilateral amendments to the Contract to make administrative changes when necessary.

24. **FORCE MAJEURE CLAUSE:** Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of either party, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor shall notify the District promptly in writing of any cause for delay and the District concurs that the delay was beyond the control and without the fault or negligence of the

Contractor. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay.

25. GENERAL INDEMNIFICATION:

A. Contractor's Indemnification. The Contractor shall be fully liable for the actions of its agents, employees, officers, parties, and subcontractors. Contractor shall indemnify, defend, and save harmless the District, its officers, agents, employees, and volunteers from and against any and all liability, demands, debts, liens/lien claims, costs, penalties, assessments, judgments, obligations, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with Contractor's acts or omissions under this Contract or Contractor's failure to comply with any state or federal statute, law, regulation, or rule during performance or applicable to the performance of the Contract.

B. Actions on Tender; Limitations. Upon receipt of the District's tender of indemnity and defense, Contractor shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for the District, to begin fulfilling its obligation to indemnify, defend, and save harmless the District. Contractor's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of the District under the Contract.

26. GOVERNING LAW, VENUE & SEVERABILITY: This Contract shall be construed in accordance with and governed by the laws, rules, and regulations of the State of Idaho. All legal action regarding or arising out of the transaction covered herein shall be solely in the State District court in and for Ada County, Boise, Idaho. In the event any term of the Contract is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms of the contract will remain in force. The unenforceable term shall be deemed modified to be enforceable, or if not subject to modification, then eliminated from the Contract to the extent necessary to permit the remaining provisions of the Contract to be enforced in accordance with the Parties intention.

27. GRATUITIES: If any gratuities or "kickbacks" are offered or tendered to any District employee or a subcontractor as an inducement for award of a Bid, Request for Proposal (RFP), subcontract or order, the Bidder's Proposal shall be disqualified and shall not be reinstated.

28. INSPECTION, ACCEPTANCE AND REJECTION: Goods and materials must be properly packaged. Damaged goods and materials will not be accepted, or if the damage is not readily apparent at the time of delivery, the goods shall be returned at no cost to the District. The District reserves the right to inspect the goods at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the goods at the time of delivery. Unless otherwise specified in the Contract:

- When the Contract does not require installation, acceptance shall occur thirty (30) calendar days after delivery, unless the District has notified the Vendor in writing that the product delivered does not meet the District's specification requirements.
- When the Contract requires installation, acceptance shall occur fourteen (14) calendar days after completion of installation, unless the District has notified the Vendor in writing that the products(s) delivered does not meet the District's specification requirements, that the product is not installed correctly or fails to pass test procedures or programs identified in the Contract.
- When the Contract requires the delivery of services, acceptance shall occur fourteen (14) calendar days after delivery of the services, unless the District has notified the Vendor in writing that the services do not meet the District's requirements or otherwise fail to pass the Vendor's established test procedures or programs, or test procedures or programs identified in the Contract.
- If the Vendor delivers nonconforming goods, the District may, at its option and at Vendor's expense: (i) return the item(s) for a full refund; (ii) require Vendor to promptly correct or replace the nonconforming item(s); or (iii) obtain replacement item(s) from another source, subject to Vendor being responsible for any cover costs. A Vendor shall not redeliver corrected or rejected

item(s) without first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the District to redeliver the corrected Item(s). Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.

29. **INTERPRETATION**: To the extent there is any issue about any alleged, perceived, or actual ambiguity in this Contract, the ambiguity shall not be resolved based on who drafted the Agreement.

30. **INVOICING**: ALL INVOICES are to be sent directly to the Building TO WHICH THE PROPERTY IS PROVIDED, unless otherwise required by the Contract. The Contract number is to be shown on all invoices.

31. **NON-WAIVER**: The failure of any party, at any time, to enforce a provision of the Contract shall in no way constitute a waiver of that provision, nor in any way effect the validity of the Contract, any part hereof, or the right of such party thereafter to enforce each provision hereof.

32. **NOTICES**: Any notice which may be or is required to be given pursuant to the provisions of the Contract shall be in writing and shall be hand delivered, emailed, prepaid overnight courier or United States' mail as follows:

    A. For notice to the District, the address, and phone number are:
    - Procurement Services, 1303 E. Central Dr., Meridian, ID 83642 208-855-4500.
    - Additionally, for notice to the District, the email address that shall be used is the email address identified in the Contract, courtesy copied to West Ada Procurement Services at procurement@westada.org.

    B. For notice to the Contractor, the address, or email address shall be that contained on the Contractor's Bid, Proposal or Quotation (including, for any Bid, Proposal or Quotation submitted electronically through Bonfire, the address, or email address in the profile under which the Contractor submitted its Bid, Proposal or Quotation). Notice shall be deemed delivered immediately upon personal service, email (with printout confirming sent) the day after deposit for overnight courier or five (5) business days after deposit in the United States' mail. Either party may change its address, or email address by giving written notice of the change to the other party.

33. **OFFICIAL, AGENT AND EMPLOYEES OF THE DISTRICT NOT PERSONALLY LIABLE**: In no event shall any official, trustee, officer, employee, or agent of the District be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with the Contract.

34. **PATENTS AND COPYRIGHT INDEMNITY:**
    A. Contractor shall indemnify and hold the District harmless and shall defend at its own expense any action brought against the District based upon a claim of infringement of a United States' patent, copyright, trade secret, or trademark for Property purchased under the Contract. Contractor will pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by the District of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and District may select at its own expense advisory counsel; and (iii) that the District shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit.

    B. Should the Property become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either procure for the District the right to continue using the Property, to replace or modify the Property so that it becomes

non-infringing, or to grant the District a full refund for the purchase price of the Property and accepts its return.

35. **PAYMENT**: Payment will be made only to the firm name written on the Bid submittal and will not be made on partial shipments unless authorized in writing by WASD. All cash discount(s) (prompt payment terms) shall be taken and computed from the date of acceptance of material or the date of receipt of the invoice, whichever is later.

36. **PAYMENT AND PERFORMANCE BONDS:** The District may request a payment and/or performance bond depending on the nature of the procurement. If additional bonding is requested, it will be identified in the bid documents and will be the Contractor's responsibility to account for the cost of those bonds, if any, in their bid submission. The West Ada School District reserves the right to request a Payment and Performance bond for projects under $50,000, if deemed necessary for the specific project.

37. **PERMITS:** If necessary, Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of this Contract.

38. **PIGGYBACKING:** Idaho Code 67-2803(1) provides a Bidding exemption for state agencies and political subdivisions where the procurement duplicates the price and substance of a contract for like goods or services that have been competitively Bid by the State of Idaho or one of its political subdivisions. Bidders agree to make the prices, terms and conditions offered under this agreement available to other public agencies in the State of Idaho, as identified in Idaho Code 67-2337 during the period that this agreement is in effect. Upon mutual agreement between the Bidder and public agency, the prices offered to other public agencies shall be at the same rate as offered to West Ada School District. WASD does not guarantee purchases from any other public agency. Any liability created by purchase orders issued against this agreement shall be the sole responsibility of the district or agency placing the order. . Paragraph 39 applies to public agencies of the State of Idaho under Idaho law. Nothing in this Paragraph or in Idaho Code 67-2803(1) waives, limits, or supersedes any federal procurement requirement. Where a Solicitation states that other public agencies or participating organizations may use the resulting Contract, a participating agency that purchases with federal funds relies on the competition conducted under the Solicitation and on its own procurement authority, and remains solely responsible for confirming that the Contract meets its own federal, state, and local requirements.

39. **PRICE GUARANTEE:** Prices are **maximums** for the period of the contract. In the event of a price decline, or should you sell the same materials under similar quantity and delivery conditions to the State of Idaho, or any County, Municipality, Political Subdivision or Legal District of the State of Idaho at prices below those bid herein, such lower prices are to be immediately extended to the West Ada School District for comparable duration as offered to the other entity.

40. **PRICES**: Prices shall not fluctuate for the period of the Contract and any renewal or extension except as provided in Paragraph 53 (Tariff Related Price Adjustments) or by written amendment under Paragraph 11 (Changes/Modifications). Unless otherwise specified, prices include all costs associated with delivery to the F.O.B. Destination address identified in the Solicitation, as provided in Paragraph 50, Shipping and Delivery, below. Unless the Solicitation or a Special Term states otherwise, a Contract under these Standard Terms is a fixed-price contract with one limited mutually agreed upon economic price adjustment, the Tariff Related Price Adjustment in Paragraph 53.

41. **PRIORITY OF DOCUMENTS:** The Contract consists of, and precedence is established by the order of the following documents:

    1. The District's Purchase Order, the Contract, or Participating Addendum;
    2. The Solicitation; and

3. Contractor's Bid, Proposal or Quotation as accepted by the District.

The Solicitation and the Contractor's Bid, Proposal or Quotation accepted by the District are incorporated into the Contract by this reference. The parties intend to include all items necessary for the proper completion of the Contract's requirements. The documents set forth above are complementary and what is required by one shall be binding as if required by all. However, in the case of any conflict or inconsistency arising under the documents, a lower numbered document shall supersede a higher numbered document to the extent necessary to resolve any such conflict or inconsistency. Provided, however, that in the event an issue is addressed in one of the above-mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur. Where terms and conditions specified in the Contractor's Bid, Proposal or Quotation differ from the terms in the Solicitation, the terms and conditions in the Solicitation shall apply.

Where terms and conditions specified in the Contractor's Bid, Proposal or Quotation supplement the terms and conditions in the Solicitation, the supplemental terms and conditions shall apply only if specifically accepted by the Procurement Services Department in writing.

42. **PROTESTS:** In compliance with Idaho Law, all Bidders are cautioned that strict guidelines and timetables must be followed to file an official protest on specifications or the award of Bids. A copy of District Procedure is posted in the office of the Purchasing Agent for review; copies may also be obtained upon request. Failure to adhere to District Policy, or failure to file a protest within the time prescribed, shall constitute a waiver of proceedings.

43. **PUBLIC RECORDS:**
A. Pursuant to Idaho Code Section 74-101, et seq., information or documents received by the District will be open to public inspection and copying unless the material is exempt from disclosure under applicable law. The person or entity submitting the material must clearly designate specific information within the document as "exempt," if claiming an exemption; and indicate the basis for such exemption (e.g., Trade Secret). The District will not accept the marking of an entire document as exempt; or a legend or statement on one page that all, or substantially all, of the document is exempt from disclosure. Submission of a Bid marked in this manner will be rejected.

B. Contractor shall indemnify and defend the District against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring such a designation or for the Contractor's failure to designate specific information within the document as exempt. The Contractor's failure to designate as exempt any document or portion of a document that is released by the District shall constitute a complete waiver of all claims for damages caused by any such release. If the District receives a request for materials claimed exempt by the Contractor, the Contractor shall provide the legal defense for such claim.

44. **PUBLIC WORKS**: Idaho Code 54-1902 stipulates that anyone bidding on a Public Works contract must hold a current and appropriate type of public works license for the job specifications in the bid at the time the bid is submitted.

45. **PURCHASING AUTHORITY:** Every Bid must be signed by a person or persons legally authorized to bind the Respondent to a contract. Bids submitted by a third-party agent for equipment or services on behalf of another entity must include a valid letter of authorization, power of attorney, or other documentation sufficient to certify the agent's authority to bind the Respondent.

46. **RECIPROSITY:** The Idaho Reciprocal Preference Law (Idaho Code 67-2348 & 67-2349) applies to West Ada School District. Some states and countries provide a preference for Vendors within their borders and add a percentage to Bids received from outside states. Where that happens, WASD shall reciprocate in like manner by adding the same percentage to Bids received from Vendors who are "domiciled" in those states

or countries. This applies to the purchases of materials, supplies, equipment, or services and is only applicable to purchases that are Bid, regardless of the dollar amount.

47. **RECORD RETENTION**. Contractor shall maintain a complete file of all records, documents, communications, and other written materials which pertain to the subject matter of this Contract and shall maintain such records for a period of not less than four years following the termination of this Contract or final payment, whichever is later, or for such further period as may be necessary to resolve any matters that may be pending.

48. **RISK OF LOSS**: Risk of loss and responsibility and liability for loss or damage will remain with the Contractor until acceptance, when responsibility will pass to the District with the exceptions of latent defects, fraud, and Contractor's warranty obligations. Such loss, injury or destruction shall not release the Contractor from any obligation under the Contract.

49. **SHIPPING AND DELIVERY**: All product deliveries shall be clearly identified with the District's Bid Number or Purchase Order Number, as applicable, on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence. Unless otherwise required, all orders will be shipped directly to location specified by the District, F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Vendor and arrive ready for use. Unless otherwise specified in the Contract, deliveries shall be made to the District's receiving dock or inside delivery point, such as the School's reception desk. The Vendor shall deliver all orders and complete installation, if required, within the time specified in the Contract. Time for delivery commences at the time the order is received by the Vendor. Time is of the essence on this Contract. If completed deliveries are not made at the time agreed, the District reserves the right to cancel or purchase elsewhere and hold Vendor accountable. If delivery dates cannot be met, Vendor agrees to advise the District, in writing, of the earliest possible shipping date for acceptance by the District.

50. **SUBCONTRACTING**: Per Idaho Code 54-1902, unless otherwise allowed by the District in the Contract, the Contractor shall not, without written approval from the District, enter any subcontract relating to the performance of the Contract or any part thereof. Approval by the District of Contractor's request to subcontract or acceptance of or payment for subcontracted work by the District shall not in any way relieve the Contractor of any responsibility under the Contract. The Contractor shall be and remain liable for all damages to the District caused by negligent performance or non-performance of work under the Contract by Contractor's subcontractor. Subcontractor(s) must maintain the same types and levels of insurance as that required of the Contractor under the Contract; unless the Contractor provides proof to the District's satisfaction that the subcontractor(s) are fully covered under the Contractor's insurance, or, except as otherwise authorized by the District.

51. **SURVIVAL**. Any portions of this Contract identified in Paragraphs 5, 12, 14, 16, 17, 21, 23, 29, 30, 32, 40, 44, 52, 54, 55 shall survive the termination or expiration hereof. In addition, any terms or conditions contained in this Contract, that by their sense and context, are intended to survive the termination or expiration of this Contract shall so survive.

52. **TARIFF RELATED PRICE ADJUSTMENTS:** The District may consider limited price adjustments—upward or downward—due to import tariffs under the following conditions:
    1. **Eligibility**: Tariff impact must exceed 5% of the total contract price for the affected item. The 5% figure is an eligibility threshold only. It is not a permitted price change.
    2. **Index & Documentation**: The request must be tied to an industry-relevant index, with documentation showing country of origin, date tariff was imposed, pre-/post-tariff cost (excluding delivery), importer/customs receipts, and proof of tariff payment.

3. **Inventory**: Contractor must exhaust non-tariff inventory before supplying tariff-affected items; proof may be required.
4. **Adjustment Cap**: Adjustments are limited to the lesser of 20% of the item's contract price or 50% of the net tariff impact.
5. **Timing**: No adjustments will be considered for tariffs imposed before the later of (a) five (5) calendar days prior to the bid submission deadline or (b) the date of the applicable quote or purchase order, whichever applies.
6. **Justification**: Contractor must document efforts to avoid tariff-affected sourcing and explain why alternatives were not feasible.
7. **Submission**: Requests must be in writing, include a detailed cost breakdown, and all supporting documentation, submitted within 30 calendar days.
8. **District Authority**: All approvals are at the District's sole discretion and require written authorization prior to implementation.

53. TAXES: The District is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. The District is generally exempt from payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (Chapter 32 Internal Revenue Code [No. 82-73-0019K]). Exemption certificates will be furnished as required upon written request by the Contractor. If the Contractor is required to pay any taxes incurred because of doing business with the District, it shall be solely responsible for the payment of those taxes. In no event shall the District be responsible for personal property taxes effecting items subject to the Contract at the time it becomes effective.

54. TERMINATION: The District may terminate the Contract (and/or any order issued pursuant to the Contract) when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or non- compliance within a reasonable time, not to exceed thirty (30) calendar days. If the Contract is terminated for default or non- compliance, the Contractor will be responsible for any costs resulting from the District's award of a new contract and any damages incurred by the District. The District, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.

55. TERMINATION FOR FISCAL NECESSITY/APPROPRIATION OF FUNDS: The District is a government entity, and it is understood and agreed that the District's payments under the Contract shall be paid from Idaho State Legislative appropriations, funds granted by the federal government, or both. The Legislature is under no legal obligation to make appropriations to fulfill the Contract. Additionally, the federal government is not legally obligated to provide funds to fulfill the Contract. The Contract shall in no way or manner be construed to bind or obligate the District beyond the term of any particular appropriation of funds by the Idaho State Legislature, or beyond any federal funds granted to the District, as may exist from time to time. The District reserves the right to terminate the Contract in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the state of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the District to continue such payments, or requires any return or "give-back" of funds required for the District to continue payments, or if the District mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available (e.g. through repeal of enabling legislation), or if the State discontinues or makes a material alteration of the program under which funds were provided, or if federal grant funds are discontinued. The District shall not be required to transfer funds between accounts if funds are reduced or unavailable. All effected future rights and liabilities of the parties shall thereupon cease within ten (10) calendar days after notice to the Contractor. Further, if funds are no longer available to support the Contract, as described herein, the District shall not be liable for any penalty, expense, or liability, or for general, special, incidental, consequential, or other damages resulting therefrom. In the event of early Contract termination under this section, the District will collect all Contractor-owned equipment and accessory items distributed under the Contract within thirty (30) calendar days of Contract termination. Items will be collected at a central (or regional) location(s)

designated by the District. Contractor will be responsible for all costs associated with packaging and removing all Contractor- owned items from the District-designated location(s), which must be completed within thirty (30) calendar days of written notification from the District. If Contractor fails to remove its items within that time, the District may charge Contractor for costs associated with storing the items; and may otherwise dispose of the items as allowed by applicable law. At Contractor's request, the District shall promptly provide supplemental documentation as to such Termination for Fiscal Necessity. Nothing in this section shall be construed as ability by the District to terminate for its convenience.

56. **USE OF THE WEST ADA SCHOOL DISTRICT NAME**: Contractor shall not, prior to, during, or after performance under the Contract, use the District's name in any advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of the District.

57. **WARRANTY:** Period shall begin on the date that the article is placed in service by the user. Each Bidder shall state in writing the warranty on parts, labor, and travel costs, when applicable.

58. **WITHDRAWAL OR CHANGE OF BID:** Bids may be withdrawn prior to the stated closing time. No change or corrections or withdrawal of Bids will be permitted thereafter. Failure to read or comply with the enclosed general information in no way relieves a Bidder from his liabilities arising hereunder. If there is a delay of 60 days for award, the Bid may be withdrawn.